

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

06-RC-291724

Date Filed

3-4-22

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer Starbucks Corporation	2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 4022 Fifth Ave., Pittsburgh, PA 15213
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3a. Employer Representative Name and Title Kevin Johnson, President/CEO, (see attachment)	3b. Address (If same as 2b state same) 2401 Utah Ave. South, Ste. 800, Seattle, WA 98134
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3c. Tel. No. 206-318-2212	3d. Cell No.	3e. Fax No.	3f. E-Mail Address kevin.johnson@starbucks.com
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4a. Type of Establishment (Factory, mine, wholesaler, etc.) Coffee shop	4b. Principal product or service Food and beverage	5a. City and State where unit is located: Pittsburgh, PA
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5b. Description of Unit Involved Included: All full-time and regular part-time Baristas and Shift Supervisors.	6a. No. of Employees in Unit: 56
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Excluded: Store Managers, Office Clericals, Guards, Professional Employees and Supervisors under the Act.	6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
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Check One: ☒ 7a. Request for recognition as Bargaining Representative was made on (Date) 3/4/2022 and Employer declined recognition on or about _____ (Date) (If no reply received, so state). **no reply**

☐ 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state). None	8b. Address
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8c. Tel No.	8d Cell No.	8e. Fax No.	8f. E-Mail Address
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8g. Affiliation, if any	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
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9. Is there now a strike or picketing at the Employer's establishment(s) involved? _____ If so, approximately how many employees are participating? _____
(Name of labor organization) _____, has picketed the Employer since (Month, Day, Year) _____.

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)
None

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
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10e. Fax No.	10f. E-Mail Address
---------------------	----------------------------

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.	11a. Election Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
--	--

11b. Election Date(s): April 1, 2022	11c. Election Time(s): N/A	11d. Election Location(s): N/A
--	--------------------------------------	--

12a. Full Name of Petitioner (including local name and number) Workers United	12b. Address (street and number, city, state, and ZIP code) 22 S. 22nd St., Philadelphia, PA 19103
---	--

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state) Workers United a/w SEIU			
---	--	--	--

12d. Tel No. 646-448-6414	12e. Cell No.	12f. Fax No. 215-575-9065	12g. E-Mail Address dpitkin@pajbwu.org
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13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
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13a. Name and Title Vlad Kachka, Attorney	13b. Address (street and number, city, state, and ZIP code) 230 S. Board St., Ste. 1400, Philadelphia, PA 19102
---	---

13c. Tel No. 215-732-0101	13d. Cell No. 215-220-3295	13e. Fax No. 215.732.7790	13f. E-Mail Address vkachka@spearwilder.com
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I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
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Name (Print) Vlad Kachka	Signature	Title Attorney	Date Mar. 4, 2022
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WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA) 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register 71 Fed. Reg. 74942 43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**Attachment to RC Petition
Employer Representative**

District Manager Michele Hetrick
mhetrick@starbucks.com,
412-485-9654

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 6

WORKERS UNITED,

Petitioner

Case No. 06-RC-291724

-and-

**MOTION TO BAR RECEIPT OF
EVIDENCE PURSUANT TO
29 C.F.R. § 102.66(c)**

STARBUCKS CORPORATION,

Employer.

In this proceeding, Starbucks has taken the position, as it has in every representation proceeding litigated so far throughout the United States, that the single-store unit petitioned for by the Union is inappropriate, because the store's identity has been allegedly subsumed by some larger appropriate organizational construct. Such a position has been belied by all of the evidence presented elsewhere and by several Decisions and Directions of Election issued in Regions 1, 3, 19, 22, and 28, and three Board decisions denying Starbucks's requests for review, the latest of which, *Starbucks Corp.*, Case no. 03-RC-285929, was issued on March 7, 2022.

The agency bears institutional responsibility for safeguarding the rights the Act grants employees to engage in collective and concerted activities in connection with their employment. Regions have sought to mitigate what has become a national farce by granting the Union's requests to direct Starbucks to submit timely offers of proof specifying the different evidence it intends to offer, which evidence may lead to a different outcome than what has been decided to date. To be sure, Starbucks has the right to present any such relevant evidence at the pre-

election hearing, should it have any such meaningfully different proof to offer than what has been offered before. But should it have no such evidence to provide, it furthers no valid institutional interest to engage in a meaningless hearing process which promises no new facts that have not already been exhaustively evaluated in the other Starbucks proceedings held over the last several months.

Starbucks filed its statement of position on March 17, 2022, and this SOP is no different than others seen in other proceedings that is, it offers no assurance that facts exist in this Pittsburgh-area Starbucks store that distinguishes it from the numerous stores in which the identical single-store question has been litigated and determined. While no Starbucks petitions have yet been considered in Region 6, there exists no reason to engage in a hearing unless Starbucks provides us with more than vague generalities. The parties and the Board are entitled to some meaningful reassurance that specific facts will be presented that might throw new light on this old subject. But the SOP betrays no sense that the arguments to be raised and the facts to be proved will result in some new or different outcome.

The Board denied the employer's request for review in the Mesa, Arizona Region 28 petition, and prescribes the burden Starbucks must shoulder in this case:

In denying review of the Regional Director's unit determination, we emphasize that the petitioned-for single store unit is presumptively appropriate. See *Haag Drug*, 169 NLRB 877, 877 (1968) (petitioned-for single store unit in retail chain is presumptively appropriate). Accordingly, the central issue here is whether the Employer has met its "heavy burden" to overcome the presumption that the single-store unit sought by the Petitioner is appropriate. See *California Pacific Medical Center*, 357 NLRB 197, 200 (2011). To rebut this presumption, the Employer "must demonstrate integration so substantial as to negate the separate identity" of the single store unit. *Id.* At various points in its request for review, the Employer suggests that employees at all 14 stores in District 380 must be included in the same bargaining unit because they share some community of interest with those employees in the petitioned-for unit. But the relevant legal question before us is whether the Employer has met its heavy burden to overcome the presumption that the petitioned-for single store unit is appropriate; the mere

fact that the petitioned-for employees may share some community of interest with excluded employees does not serve to rebut the presumption.

371 NLRB No. 71, slip op. p. 1.

The Board went on to further describe the factors to be evaluated in rebutting the single-store presumption. “With respect to the factor of interchange,” the Board continued,

. . . while both parties “brandish extensive statistics . . . these statistics must be assessed in the context of the relevant legal test, where the key question is the nature and degree of interchange and its significance in the context of collective bargaining. In this regard, although frequent and regular interchange supports finding a community of interest, it is well-established that infrequent, limited, and one-way interchange do not require finding a shared community of community of interest the Store 5610 employees are presumed to share.

With respect to centralized operations and local autonomy . . . the Petitioner adduced specific testimony demonstrating that Store Managers do, in fact, play a significant role in adjusting schedules, approving time off and overtime, evaluating employees, conducting interviews and hiring employees, and imposing discipline. Although the Employer maintains nationwide tools and policies, it is the Store Managers who implement these tools and policies at the local level, and make adjustments as needed in real time (by, for example, addressing employees complaints about work assignments). In contrast, the Employer provided only conclusory and generalized testimony to support its assertion that Store Managers cannot deviate from its automated tools and that its Store Managers must seek approval from higher-level managers when making personnel decisions. Because the Employer bears the burden of proof here, it must provide more than conclusory evidence to establish that its Store Managers have little discretion in personnel matters, especially where there is specific evidence indicating otherwise. Contrary to the Employer’s assertions, extant Board law is fully capable of taking the Employer’s modern-day technology into account; in this case, however, the Employer has not met its burden to prove that these technologies actually negate Store Managers’ autonomy over certain personnel matters in the day-to-day operation of individual stores.

Finally . . . the remaining factors under the Board’s single-facility test—similarity of employee skills, functions, and working conditions; geographic proximity; and bargaining history—are not sufficient to rebut the single-facility presumption in the context of the Board’s multi-factor analysis.... [W]e agree that the uniform skills, functions, and working conditions across District 380 are outweighed by other factors, most significantly the lack of significant interchange and Store Managers’ local autonomy over the personnel functions discussed above.

Id. at 1-2 (footnotes and citations omitted).¹

¹ The Board issued a similar decision with regard to the first Buffalo set of petitions on December 7, 2021. *See Starbucks Corp. and Workers United*, Case Nos. 03-RC-282115, 03-RC-282127, 03-RC-282139 (Corrected Order issued December 7, 2021) at n.2.

The Union does not advocate foreclosing Starbucks's ability to present evidence of facts which might *materially differ* from the facts already thoroughly reviewed in prior decisions. But to subject the parties and the Board to further lengthy hearings to learn of the same kinds of facts that are already well-established is to abuse the Board's processes and the parties' resources not to mention the psyches of the prospective voters who seem to be the real targets of this widespread corporate campaign. If Pittsburgh really differs with regard to specifically-identified and meaningful factors from the other stores amply discussed in other recent decisions, Starbucks should be put to the relatively simple task of identifying what evidence it has to show that. But its SOP for this store hints at nothing of the kind; it describes the same sort of national or area-wide evidence that Starbucks has exhaustively presented elsewhere not evidence, the Board has already confirmed, which might even begin to satisfy the employer's "heavy burden to overcome the presumption that the single store unit sought . . . is appropriate," not simply more evidence to further show "the mere fact that the petitioned-for employees may share some community of interest with excluded employees [which] does not serve to rebut the presumption."

While this representation proceeding is characterized in Board law as "investigatory" rather than "adversarial" in nature, there remains much to be said for the twin preclusion concepts of *res judicata* and collateral estoppel, which teach that administrative agencies best use their limited resources by refusing to try and determine the same legal or factual issues arising between the same parties over and over again. Starbucks cannot reasonably expect to hunt down different results by targeting the same game in different Regions. The general rule is that parties get one bite at the apple. Other Regions have evaluated similar evidence and argument to conclude that each company-owned Starbucks store is (as the *Haag Drug* presumption suggests) an appropriate unit for a Board election for its employees. No single store's identity has been found to have been obliterated by some larger organizational construct preferred by the Employer. And this SOP suggests nothing different.

The Board's Rules and Regulations furnish the Regional Director a control mechanism against litigation waste and abuse one that can avoid our learning whether Starbucks may

succeed in its devotion to making the *same* arguments, with the *same* facts and experts' opinions, over and over again. Section 102.66(c) of the Regulations gives the Regional Director the ability to limit what will be presented so as to mitigate the harmful effects of wasteful efforts by all involved. Streamlining the election process by eliminating duplicative hearings protects the right of Starbucks employees to freely select a bargaining representative. Section 102.66(c) authorizes the Regional Director to direct Starbucks to submit a timely offer of proof to support its attempt to rebut the Board's single-store unit presumption. If that offer of proof does not demonstrate that the employer has new evidence to overcome the single-store presumption, then Starbucks should be precluded from offering evidence on that issue.

That Regulation, codified at 29 C.F.R. § 102.66(c), reads in relevant part:

The Regional Director shall direct the Hearing Officer concerning the issues to be litigated at the hearing. The Hearing Officer may solicit offers of proof from the parties or their counsel as to any or all such issues. Offers of proof shall take the form of a written statement or an oral statement on the record identifying each witness the party would call to testify concerning the issue and summarizing each witness's testimony. If the Regional Director determines that the evidence described in an offer of proof is insufficient to sustain the proponent's position, the evidence shall not be received.

The Regional Director's sole discretion to evaluate and determine whether the evidence offered, or to be offered, is sufficient to "sustain the proponent's position" in a hearing and, if not, to direct its exclusion is supported also by the Board's Casehandling Manual, Part Two, Representation Proceedings, § 11226 (September 2020) (providing for the use of offers of proof "to focus and define issues and provide a foundation to accept or exclude evidence"). Such essential tools to reasonably control the proceedings and to stem litigation waste and abuse have been approved by the Board and the courts. *See, e.g., Jersey Shore Nursing and Rehabilitation Center*, 325 NLRB 603 (1998) (affirming the Hearing Officer's exclusion of evidence, following the employer's offer of proof, that sought to establish the impropriety of presumptively appropriate units); *NLRB v. Tito Contractors*, 847 F.3d 724, 730 (D.C. Cir. 2017) (approving the Board's use of an offer of proof where the employer challenged a presumptively appropriate employer-wide unit, and noting that *Jersey Shore* "is direct precedent supporting the use of an offer of proof in lieu of oral testimony if the petitioned-for unit is presumptively appropriate").

A party is not entitled to present the same case again and again that makes a mockery of the Board's processes, and denudes employee rights. The relevant issues have already been decided. The SOPs filed in this case does not presently demonstrate that new and materially different evidence that may change prior outcomes is in the offing. Should Starbucks have materially different facts that will make a difference in the outcome that will show, that is, that it can overcome the heavy presumption of the appropriateness of the single-store units sought it is entitled to present evidence of those facts in this matter's hearing. But the Regional Director is empowered to control the proceeding to avoid waste and needless effort, if not abuse, and should do so here in accord with the Act's underlying purpose to protect employees' rights to engage in collective and concerted activity.²

The petitioner, Workers United, respectfully requests that the Regional Director direct Starbucks to make a specific offer of proof in support of its assertion that the single-store unit sought here is inappropriate, and that an appropriate unit is the broader unit it suggests. Should it fail to present an offer of proof sufficient to show that it can shoulder its heavy burden to demonstrate that this single-store unit is inappropriate, it should be barred from presenting evidence concerning such legal or factual issues for which a sufficient offer has not been provided.

Respectfully submitted,

SPEAR WILDERMAN, P.C.

BY: /s/ Vlad Kachka
VLAD KACHKA, ESQUIRE
230 S. Broad Street, Ste. 1400
Philadelphia, PA 19102
vkachka@spearwilderman.com
215-220-3295

Attorneys for Petitioner Workers United

Date: March 17, 2022

² Orders to Show Cause have been issued in *Starbucks* cases arising in Phoenix, Case No. 28-RC-289033 (February 4); Chicago, Case No. 13-RC-288995 (February 9); Atlanta, Case No. 10-RC-289571 (February 11); Denver, Case No. 27-RC-289608 (February 11); and in Los Angeles, Case No. 31-RC-289988 (February 16). We suggest that the Show Cause Order issued by Region 4 on February 22 (a copy of which is attached) is the most appropriate of these for purposes of the present proceeding.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No.	06-RC-292760
Date Filed	3-23-22

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer Starbucks Corporation		2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 7 Market Square, Pittsburgh, PA 15222	
3a. Employer Representative - Name and Title Howard Schultz, President/CEO, (see attachment)		3b. Address (If same as 2b - state same) 2401 Utah Ave. South, Ste. 800, Seattle, WA 98134	
3c. Tel. No. 206-318-2212	3d. Cell No.	3e. Fax No.	3f. E-Mail Address hschultz@starbucks.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Coffee shop		4b. Principal product or service Food and beverage	
5a. City and State where unit is located: Pittsburgh, PA		5b. Description of Unit Involved Included: All full-time and regular part-time Baristas and Shift Supervisors. Excluded: Store Managers, Office Clericals, Guards, Professional Employees and Supervisors under the Act.	
6a. No. of Employees in Unit: 26		6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

Check One: ☒ 7a. Request for recognition as Bargaining Representative was made on (Date) 3/23/2022 and Employer declined recognition on or about _____ (Date) (If no reply received, so state). no reply
☐ 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state). None		8b. Address	
8c. Tel No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any		8h. Date of Recognition or Certification	
		8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)	

9. Is there now a strike or picketing at the Employer's establishment(s) involved? _____ If so, approximately how many employees are participating? _____
(Name of labor organization) _____, has picketed the Employer since (Month, Day, Year) _____

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)
None

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	11b. Election Date(s): April 1, 2022	11c. Election Time(s): N/A	11d. Election Location(s): N/A
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12a. Full Name of Petitioner (including local name and number) Workers United	12b. Address (street and number, city, state, and ZIP code) 22 S. 22nd St., Philadelphia, PA 19103
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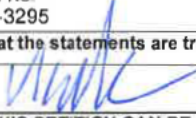
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)
Workers United a/w SEIU

12d. Tel No. 646-448-6414	12e. Cell No.	12f. Fax No. 215-575-9065	12g. E-Mail Address dpitkin@pajbwu.org
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13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title Vlad Kachka, Attorney		13b. Address (street and number, city, state, and ZIP code) 230 S. Board St., Ste. 1400, Philadelphia, PA 19102	
13c. Tel No. 215-732-0101	13d. Cell No. 215-220-3295	13e. Fax No. 215.732.7790	13f. E-Mail Address vkachka@spearwildermand.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Vlad Kachka	Signature 	Title Attorney	Date Mar. 23, 2022
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WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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**Attachment to RC Petition
Employer Representative**

District Manager Michele Hetrick
mhetrick@starbucks.com,
412-485-9654

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

06-RC-292767

Date Filed

3/23/22

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Starbucks Corporation

2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)
425 Craig Street, Pittsburgh, PA 15213

3a. Employer Representative - Name and Title

Howard Schultz, President/CEO, (see attachment)

3b. Address (If same as 2b - state same)

2401 Utah Ave. South, Ste. 800, Seattle, WA 98134

3c. Tel. No.

206-318-2212

3d. Cell No.

3e. Fax No.

3f. E-Mail Address

hschultz@starbucks.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)

Coffee shop

4b. Principal product or service

Food and beverage

5a. City and State where unit is located:
Pittsburgh, PA

5b. Description of Unit Involved

Included: All full-time and regular part-time Baristas and Shift Supervisors.

Excluded: Store Managers, Office Clericals, Guards, Professional Employees and Supervisors under the Act.

6a. No. of Employees in Unit:

29

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One:



7a. Request for recognition as Bargaining Representative was made on (Date) 3/23/2022 and Employer declined recognition on or about _____ (Date) (If no reply received, so state). **no reply**



7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

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None

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10a. Name

10b. Address

10c. Tel. No.

10d. Cell No.

10e. Fax No.

10f. E-Mail Address

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: ☐ Manual ☒ Mail ☐ Mixed Manual/Mail

11b. Election Date(s):
April 1, 2022

11c. Election Time(s):
N/A

11d. Election Location(s):
N/A

12a. Full Name of Petitioner (including local name and number)

Workers United

12b. Address (street and number, city, state, and ZIP code)
22 S. 22nd St., Philadelphia, PA 19103

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)

Workers United a/w SEIU

12d. Tel No.

646 448 6414

12e. Cell No.

12f. Fax No.

215 575 9065

12g. E-Mail Address

dpitkin@pajbwu.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title
Vlad Kachka, Attorney

13b. Address (street and number, city, state, and ZIP code)
230 S. Board St., Ste. 1400, Philadelphia, PA 19102

13c. Tel No.

215-732 0101

13d. Cell No.

215-220 3295

13e. Fax No.

215.732.7790

13f. E Mail Address

vkachka@spearwilderman.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)

Vlad Kachka

Signature



Title

Attorney

Date

Mar. 23, 2022

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

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**Attachment to RC Petition
Employer Representative**

District Manager Michele Hetrick
mhetrick@starbucks.com,
412-485-9654

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 6**

STARBUCKS CORPORATION

Employer

and

WORKERS UNITED

Petitioner

Case No.: 06-RC-292767

**STARBUCKS CORPORATION’S OBJECTION
TO THE CONDUCT OF THE ELECTION**

Pursuant to the Rules and Regulations of the National Labor Relations Board (“NLRB”), including Section 102.69, Starbucks Corporation (“Starbucks” or “Company”) files the following Objection to Conduct of the Election in connection with the mail ballot election in Case No. 06-RC-292767.

I. RELEVANT FACTS

In response to Workers United’s (“Union”) representation petition in Case No. 06-RC-292767, Starbucks opposed the holding of a mail ballot election given the well-established problems relating to mail ballot elections. Starbucks asserted its position in its initial Statement of Position, and in a second Statement of Position specific to and election agreement requested by the Region. On April 29, 2022, the Region issued an Order requiring a mail ballot election. In the Order, the Region directed the mailing of ballots from Region 6’s office on May 6, 2022, with eligible voters to return ballots before 1:00 p.m. on May 26, 2022, with a virtual ballot count set to occur on the same day.

At the May 26, 2022 ballot count, Region 6 informed the Parties that ballots of only 19 of the 27 eligible voters on the Voter List were received by the Region. At this time, the Parties were informed that the ballots of eight employees (known as partners), or 34% of eligible voters, had not arrived at the Region's office. Among the Parties, 6 of the 19 received ballots were challenged. Thus, Region 6 proceeded to open the 13 ballots, resulting in a tally of 5 to 8, in favor of Union representation, but not determinative with respect to the outcome due to challenges. The eight partners ballots were unaccounted for.

Partners expressed surprise by the low number of votes that were counted. After the ballot count, some partners asked their managers if their votes had been counted. Specifically, one partner said that they mailed their ballot using the United States Postal Service mailbox located in near academic institution three days after receiving the ballot. They can confirm this through testimony that they, indeed, received their ballot, properly filled out their ballot and mailed in their ballot. The Region did not count, nor account, for this partner's ballot, which may be determinative in the election based on the counted ballots on May 26, 2022.

II. LEGAL STANDARD

"The goal of holding a representative election is to allow employees to choose freely and fairly whether they want a union to act as their collective bargaining agent." *NLRB v. L & J Equip. Co., Inc.*, 745 F.2d 224, 235-36 (3d Cir. 1984). To set aside an election based on procedural irregularities, the objecting party must show that there is evidence that "raises a reasonable doubt as to the fairness and validity of the election." *Durham School Services, LP*, 360 NLRB 851, slip op. at 4 (2014); *see also Physicians & Surgeons Ambulance Serv.*, 356 NLRB No. 42, slip op. at 1 (2012). Under that standard, an election will be set aside if the objecting party shows that an election irregularity possibly disenfranchised enough voters to

affect the election outcome. *Dayton Malleable Iron Co.*, 123 NLRB 1707, 1709 (1959); *Midwest Canvas Corp.*, 326 NLRB 58 (1998); *see also Classic Valet Parking, Inc.*, 363 NLRB No. 23 (2015), slip op. at 2 (“in an extremely unusual case . . . when our regular procedures have been deficient, the Board’s normal rules must be balanced against our statutory responsibility to assure that employees have been reasonably permitted to freely exercise their rights under the Act”); *NLRB v. Pinkerton's, Inc.*, 621 F.2d 1322, 1330 (6th Cir. 1980) (remanding for an evidentiary hearing to determine whether the NLRB actually sent ballots to all employees where petitioner established an unusual pattern of non-delivery — those who failed to receive ballots all lived in the same region — and finding that made the court “particularly skeptical of the regularity of the Board’s procedures”).

III. ARGUMENT

The basic facts are not in dispute. At least one timely mailed ballot was not delivered to the Board or misplaced by the Board prior to the tally of ballots on May 26, 2022, despite the partner confirming the precise details of mailing their ballot well before that date. This is the precise type of unusual pattern that calls for further inquiry and a new election.¹ In the instant matter, the unreceived (or lost) ballot may be determinative in this election and the interest of maintaining the Board’s standards requires the election be set aside and a new election directed.

Through the above-described procedural irregularities, Starbucks’ partners were deprived of their Section 7 rights to vote on the issue of union representation. It is requested that Region 6 investigate the instant Objection.

Starbucks objects to the following:

OBJECTION

¹ In addition to the one confirmed ballot being mailed, there are still 7 eligible ballots unaccounted for.

Irregularities in the delivery and/or handling of the ballots cast doubt on whether all valid ballots were counted and undermines the integrity of the election and the parties' confidence in the election results.

* * *

Based on the foregoing objection, Starbucks respectfully submits that the election results must be set aside, and a re-run election conducted. If the Regional Director does not order a re-run election administratively, Starbucks requests a hearing in which to present documentary evidence and witness testimony in support of its Objection.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that Starbucks Corporation's Objection to the Conduct of the Election in Case No. 06-RC-292767 was electronically filed on June 2, 2022, through the Board's website and also served via email on the following:

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